

In the Court of the Conqueror
Annotated Bibliography
george emilio sanchez

American Indian Religious Freedom Act (AIRFA), Public Law 95-341, 92 Stat. 469 (August 11, 1978)

This statute is referred to in the section on the *Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988) case and how the consultation with tribes was now a federal mandate. Consultation in this case was related to the environmental impact study that was mandated to confirm the U.S. Forest Service had the full agreement by tribes to allow for the proposed road to be built.

Cherokee Nation v. Georgia, 30 U.S. (5 Pet.) 1 (1831)

Cherokee Nation v. Georgia (1831) is one of the three foundational cases of Federal Indian Law. Here, the Cherokee Nation requested a federal injunction against the state of Georgia in its attempt to destroy the Nation, and to acknowledge the tribal sovereignty of the Cherokee Nation. In the section on *Lyng v. Northwest Indian Cemetery Protective Association* (1988), I refer to this case where Chief Justice John Marshall categorized the relationship between Indians and the federal sovereign as “wards to a guardian”, and as justification for the plenary power doctrine.

Cohen, F. (1941). *Cohen’s Handbook of Federal Indian Law*. Newark, New Jersey: LexisNexis, 2005

Felix Cohen’s Handbook of Federal Indian Law is an in-depth encyclopedic reference book that covers the specifics and complexities of Federal Indian Law. In the section titled, “Three Sovereigns”, I quote Cohen and his definition of Tribal Sovereignty.

Dawes Severalty Act of 1887 (General Allotment Act), Pub.L. 49-105, 24 Stat. 388

The Dawes Act, popularly coined the General Allotment Act, implemented a federal regimen to regulate tribal lands in an effort to replace the collective culture of indigenous people by introducing the concept of, and adherence to, private property. In the closing section of the performance I summarize how two statutes, the 1830 Indian Removal Act and the General Allotment Act, dispossessed and displaced Indians as being emblematic of the unequal and unjust relationship between two of the three sovereigns of the U.S.

Duthu, N.B. (2008). *American Indians and the Law*. New York, N.Y. Penguin Group.

This book addresses how Indian tribes are a sovereign entity in the U.S. and it explores landmark cases of Indian Law for the past 200 years. This book assisted me in helping me to formulate a creative response to the *Lyng* and *Oliphant* cases, as well as, further understanding of the implicit divestiture doctrine supplied by Associate Justice William H. Rehnquist in *Oliphant v. Suquamish Indian Tribe* (1978) landmark case.

Ex Parte Crow Dog, 109 U.S. 556 (1883)

In the section on the Lyng case, I preface that case by first referring to the Ex Parte Crow Dog case. In this case the Supreme Court acknowledged and upheld the tribe's criminal jurisdiction and tribal sovereignty in regards to Indian-on-Indian crime.

General Crimes Act (Indian Country Crimes Act), 1817, 18 U.S.C. § 1152

I refer to the General Crimes Act and the Indian Crimes Act of 1817 when contextualizing how the criminal jurisdiction of Indian-on-Indian crime was forever altered with the passing of the Major Crimes Act.

Indian Removal Act (1830), Pub.L. 21-148, 4 Stat. 411

Along with the Dawes Act, I refer to these two statutes as being emblematic of the unequal relationship between the Federal and Indian sovereigns towards the end of the piece.

Indian Reorganization Act (Wheeler-Howard Act), Pub.L. 73-383, 48 Stat. 984

In the section on the Three Sovereigns I reference the IRA when describing how tribes had to submit tribal constitutions modeled after the U.S. Constitution.

Johnson v. M'Intosh, 21 U.S. (7 Wheat.) 543 (1823)

I refer to this case and the Doctrine of Discovery throughout the piece. What began as a seemingly simple case regarding a land dispute, transformed into the landmark case that gives title to all the lands to the U.S. Federal Sovereign, and left Indians with a right of occupancy. An entire section and a video projection revolve around this case and related doctrine. The Doctrine of Discovery is at the core of this performance piece.

Lyng v. Northwest Indian Cemetery Protective Association, 485 U.S. 439 (1988)

This case forms a core part of the piece wherein I tie in *United States v. Kagan* and *Ex Parte Crow Dog* cases. This section is central to the creative argument demonstrating how the Federal Sovereign has overstepped (no pun intended) its boundary from the onset of the invasion of the United States.

Major Crimes Act, 18 U.S.C. § 1153

I refer to this statute on criminal jurisdiction in the section on the *Oliphant* case.

Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978)

This section contextualizes the significance of how the Court has severely diminished the criminal jurisdiction of Indian Country and breaking the statutory precedents of the Trade and Intercourse Acts and the Indian Country Crimes Act. In the end, this landmark case gives full

evidence how the Court and judicial branch have significantly attacked the Tribal Sovereignty of Native Nations.

Public Law 280, 18 U.S.C. § 1162

This is a quick and simple reference to how PL 280, and the Termination Era, were born on or near my own birth. I simply wanted to parallel how some of the history of Federal Indian Law can be directly linked to my own birth and existence.

Robertson, L. (2005). *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York, N.Y.. Oxford University Press.

This book was invaluable in regards to the central case cited in my performance, the *Johnson v. M'Intosh* (1823) case. This groundbreaking book reveals the complex and troubling history of how a land dispute became a legal doctrine that dispossessed all indigenous people in the U.S. Most importantly, this book provided me with the map and location of the lands involved in the Johnson case, which is how I was able to film the video “dream letter” to Chief Justice John Marshall.

Trade and Intercourse Act, 1790, 1793, 1796, 1799, 1802 and 1834

These federal statutes are mentioned in the section on *Oliphant v. Suquamish Indian Tribe* (1978) in order to show how the ruling by the Court, and the majority opinion of Associate Justice William H. Rehnquist, overturned the historical limitation on the Federal Sovereign to extend its jurisdiction into Indian Country.

United States Constitution, Preamble & Art. VI, cl. 2

I refer to the Preamble in the next to last section, ‘Whose America’, and Art. VI, cl. 2 in the opening of the section on *Johnson v. M'Intosh* (1823).

Wilkins, D. & Lomawaima, K.T. (2001). *Uneven Ground-American Indian Sovereignty and Federal Law*. Norman, OK.: University of Oklahoma Press.

This book examines seven foundational doctrines of Federal Indian Law that includes indigenous perspectives of Indian Law and Policy. This book was specifically critical for its content on the doctrines of plenary power and implicit divestiture.

Wright, R. (1992). *Stolen Continents-The New World Through Indian Eyes*. Boston, MA., New York, N.Y. :Houghton Mifflin Company

Through the prism of five indigenous peoples and cultures of the Americas, this book provides a rich history of the indigenous presence before the arrival of Europeans in the 15th century. It also supplied the history and context of the Iroquois Confederacy (Haudenosaunee) and the iconography of the U.S. dollar bill.